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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,247	12/27/2000	Fumito Takemoto	2091-0226P	4716
7590 09/09/2005			EXAMINER	
BIRCH, STEWART, KOLASCH & BIRCH, LLP			WU, JINGGE	
P.O. BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	
			2623	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,247

Applicant(s)

TAKEMOTO, FUMITO

Examiner

Jingge Wu

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) 22-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on February 16th, 2005 has been entered. Applicants' amendment, filed on June 21, 2005 has been entered and made of record. An action on the RCE follows.

Applicants' amendment has required new grounds of rejection. New grounds rejection are therefore presented in the Office Action.

Applicant's arguments with respect to claims 1-21 have been fully considered but are moot in view of the new ground(s) of rejection. The Examiner likes to point out that the Segawa still read on the limitation of "the type of" image, even through a new ground, because the reference images described in Segawa are all same type of images that include different tones and colors.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 12-13, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 409172553A to Segawa in view of JP 8221546 to Masayuki (a reference of PTO 1449).

As to claim 1, Sagawa discloses an image processing method comprising:
receiving selection of a target image (one of the reference image) having a desired color tone from a plurality of reference images, each including the same type of image, each having a different color-tone (abstract, 0007-0009, note that the reference (criteria) images are the same type of images with different tones and colors);
receiving specification of an image in an image display (fig. 5, 0013); and
changing color tone of a specified image to the target color tone of the selected image (figs. 8-9, 0018-0019).

Sagawa does not explicitly mention selecting an area from the image.

Masayuki, in an analogous environment, discloses selecting an area of an image and then to match the color tone of the area with a desired tone.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the scheme of Masayuki in the method of Sagawa in order to process the color matching easily for a user without any special knowledge or technique (Masayuki, abstract).

As to claim 2, Sagawa further discloses generating plurality of reference images before receiving the selection of the target image (abstract).

As to claims 3-6, 7-8, 12-13, 17-18 the claims are corresponding image processing apparatus, computer readable medium, image processing method, claims to claims 1-2, and the discussion is addressed with regard to claims 1-2.

Claims 9-11, 14-16, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segawa and Masayuki, further in view of US 5461457 to Nakamura and US 6463172 to Yoshimura (a reference of record).

As to claim 9-11, 14-16, 19-21, the combination of Segawa and Masayuki does not explicitly mention the face and the cumulative histogram.

Nakamura, in an analogous environment, discloses the human face (fig. 4b) and using histograms to correct the colors of the faces (col. 4 lines 38-col. 5 line 14).

Yoshimura, in an analogous environment, further discloses changing histogram of the target image to the histogram of the reference image (col. 4 lines 42-52).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the schemes of Nakamura and Yoshimura in the method of Sagawa in order to process the color matching easily for a user without any special knowledge or technique (Sagawa, abstract, Yoshimura and Nakamura, abstract).

Allowable Subject Matter

Claims 22-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Contact Information

Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (571) 272-7429. He can normally be

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reached Monday through Thursday from 8:00 am to 4:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (571) 272-2600.

The Working Group Fax number is (571) 273-8300.

Jingge Wu

Primary Patent Examiner

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, is positioned over the printed name and title.